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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,220

04/28/2005

Shoichi Akita

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EXAMINER

GRABOWSKI, KYLE ROBERT

ART UNIT

PAPER NUMBER

3722

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,220	<b>Applicant(s)</b> AKITA, SHOICHI	
	<b>Examiner</b> KYLE GRABOWSKI	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/28/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: minor spelling error "Because f this" (Pg 2, Ln 5).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, 11, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (US 6,399,189). Kobayashi et al. disclose a sheet-form structure (label) comprising a foam sheet 1 and foam layer 3; pressing rolls 13 and 14 (Fig. 5b) shape granules on the outer surface creating a lattice-like array (Fig. 2), wherein the spaces between the granules 2 are linear depressions –providing partially thinned portions lending to an total uneven surface portion. Polystyrene is a suitable choice for the expandable thermoplastic resin (Col. 6, Ln 60). As to the linear depressions, “when cylindrically shaped, [the granules] have diameters preferably in the

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range of 1 mm-30 mm" (Col. 13, Lns 36-37) and have center distances "preferably 2mm-50mm" (Col. 13, Lns 60-61). A chosen diameter 3mm and a range of center spacing between 3.5 mm and 6 mm will yield a linear depression width of 0.5-3.0 mm. Kobayashi does not disclose the label "for being attached to a main part of the body of a container" however this is only intended use of the label, and does not describe the structure of the label. Kobayashi additionally discloses the pressing of the foam sheet towards the thickness direction of the sheet (Fig. 5b).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US 6,399,189) in view of Junichi (JP 08-076690).

In respect to 10, Kobayashi et al. substantially disclose the claimed subject matter for the reasons stated above but do not specifically disclose a heat sensitive adhesive layer. Junichi discloses a similar label 1 with a formed layer 23 and a thermosensitive heat layer 24 (Drawing 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the label taught in Kobayashi et al. with the thermosensitive heat layer in view of Junichi to allow the label to bind to a container or other desired substrate.

In respect to claim 14, Kobayashi additionally discloses that the “subsequently extruded, sheet-form, expandable thermoplastic resin, while in a softened state, is introduced between a pair of counterrotating shaping rolls” (Col. 16, Lns 44-45), wherein the sheet is softened previous to compression—the specification does not specify any heat source applied to the compressor itself. The plates have linear extrusions along their outside surface converse of troughs 13a (Fig. 5b). Kobayashi et al. do not disclose a heat sensitive layer however it would have been obvious to provide for the same reasons stated above in claim 10.

6. Claim 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai et al. (US 5,725,940) in view of Junichi (JP 08-076690). Sakai et al. disclose a composite molded article (affixing it as a label is attended usage of the structure) comprising a foamed resin 13 and multilayer board 11 and 12. The multilayer board constitutes “a unidirectional fiber-reinforced thermoplastic resin plate (hereinafter

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referred to as the prepreg)" (Col. 4, Lns 3-5); "the multilayer boards having been molded into shapes adapted to a shape of the core material are heated to not less than the melting temperature of the thermoplastic resin and are pressed and glued to the core material" (Abstract). Therefore, when pressed the resin plates form an embossed portion on the outside of the label, conforming to the depressed foam layer (Fig 3).

Sakai et al. do not disclose a heat sensitive adhesive layer. Junichi discloses a similar label 1 with a formed layer 23 and a thermosensitive heat layer 24 (Drawing 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the label taught in Sakai et al. with the thermosensitive heat layer in view of Junichi to allow the label to bind to a container or other desired substrate.

Sakai et al. also do not specify manufacturing a plurality of labels. Junichi discloses a die cutter 6 (Drawing 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the composite molded article taught in Sakai et al. with a die cut machine in view of Junichi to economically produce more than one label at a time.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nishizawa et al. (US 6,858,283), Chang et al. (US 6,387,470), Robinson (US 4,695,501), Hoopingarner et al. (US 6,251,497), Kapral (US 4,055,613), and Ragan (US 3,496,043).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KYLE GRABOWSKI whose telephone number is (571)270-3518. The examiner can normally be reached on Monday-Thursday or every other Friday

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kyle Grabowski  
Examiner, Art Unit 3722

/Monica S. Carter/  
Supervisory Patent Examiner, Art Unit 3722

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